

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

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|---|---|-------------------------|
| In the Matter of |) | |
| |) | |
| Verizon Communications, Inc., Transferor |) | |
| |) | |
| and |) | WT Docket No. 06-113 |
| |) | DA 06-1245 |
| América Móvil, S.A. de C.V., Transferee |) | |
| |) | |
| Applications for Consent to the Transfer of Control |) | File Nos: 0002597508, |
| of Entities Holding Commission Licenses and |) | ITC-T/C -20060510-00269 |
| Authorizations Pursuant to Sections 214 and 310(d) |) | |
| of the Communications Act |) | |

COMMENTS OF SPRINT NEXTEL CORPORATION

Sprint Nextel Corporation (“Sprint”) hereby submits its comments on the petitions filed pursuant to the Public Notice released by the Commission in the above-captioned proceeding.¹ Petitions to deny the transfer of control of Telecommunicaciones de Puerto Rico, Inc. (“TELPRI”) to a subsidiary of América Móvil were filed on July 14, 2006 by Telefónica Larga Distancia de Puerto Rico, Inc. (“TLD”), WorldNet Telecommunications, Inc. (“WorldNet”), Centennial Communications Corp. (“Centennial”), and the Telecommunications Regulatory Board of Puerto Rico (“TRB”).²

¹ América Móvil, S.A. de C.V., Verizon Communications, Inc., and Subsidiaries of Telecommunicaciones de Puerto Rico, Inc. Seek FCC Consent to Transfer Control of Licenses and Authorizations and Request a Declaratory Ruling on Foreign Ownership, WT Docket No. 06-113, DA 06-1245 (released June 14, 2006).

² In addition, the President and President *pro tem* of the Senate of Puerto Rico filed a “Motion to Address Public Interest Concerns” in this docket on July 14, 2006.

Sprint did not file a petition to deny the transfer of TELPRI from Verizon to América Móvil. It does, however, have significant marketplace concerns arising from the state of competition in Puerto Rico and potential effects of the proposed transfer of control. Sprint, therefore, urges the Commission to address these concerns in its decision-making on these applications.

As a provider of wireless and interexchange services, Sprint is concerned that the proposed transfer will affect competitive conditions for continued growth in these sectors. Earlier this year, Sprint expressed concern about competitive issues in Puerto Rico in comments it filed in support of TLD's petition for declaratory ruling urging the Commission to find unlawful the "Single Zone Plan" tariff filed with the TRB by TELPRI's local exchange subsidiary, the Puerto Rico Telephone Company ("PRTC").³ The Single Zone Plan would have eliminated competition for intra-island calling in Puerto Rico and would have automatically transferred all of Sprint's and other interexchange carriers' presubscribed customers for intra-island toll service to PRTC. The tariff revisions were withdrawn after substantial opposition before the Commission and the TRB. It is against this backdrop of a recent attempt to undermine competition in Puerto Rico that Sprint frames its comments on the proposed transfer of control.

I. PRTC's DOMINANT POSITION RENDERS OTHER SERVICE PROVIDERS, SUCH AS SPRINT, VULNERABLE TO POTENTIAL ANTICOMPETITIVE PRACTICES.

WorldNet and TLD document in their petitions the dominant status of PRTC as the incumbent local exchange carrier in Puerto Rico. TLD notes PRTC's statements, made in the context of its efforts to obtain universal service funding, that it has nearly all of the wireline local

³ Comments of Sprint Nextel Corporation, WC Docket No. 06-01 (filed Jan. 26, 2006).

exchange subscribers on the island.⁴ TLD also notes the relative absence of CLEC geographic coverage and any form of rate regulation of PRTC's local and intra-island operations.⁵ After characterizing PRTC as having "overwhelming market share and monopoly market power,"⁶ WorldNet chronicles PRTC's history of failure to meet minimum requirements in wholesale provisioning necessary for competitive entry into the local exchange market, notably in the areas of OSS access, order provisioning, service migration issues, and billing problems.⁷ Indeed, WorldNet points to a December 2003 filing of the TRB before the FCC, which describes PRTC as "unprepared, uninterested, and incapable of providing wholesale services as and when required or promised."⁸

Sprint agrees with these petitioners that PRTC does occupy a dominant position as a near-monopoly provider of wireline local exchange services. And as its history of resistance to local wireline competition shows, PRTC can use its position of dominance to stymie competition from other carriers, whether through inattention or by a conscious decision not to allocate resources to meet competitors' needs. Sprint's own dealings with PRTC and its wireless affiliate show a steady record of improvement in recent months in important areas such as number portability (both wireless-to-wireless and wireline-to-wireless) and installation of special access lines. Nevertheless, this recent pattern of improved performance could be reversed almost instantly if new management were to decide to ignore the norms of responsible, legitimate

⁴ TLD Petition at 23-24.

⁵ *Id.* at 12-13.

⁶ WorldNet Petition at 5.

⁷ *Id.* at 14-20.

⁸ *Id.* at 16, citing Waiver Petition of the Telecommunications Regulatory Board of Puerto Rico, CC Docket No. 01-338, at 23 (filed Dec. 30, 2003).

conduct in a competitive marketplace. If adherence to these norms were to be superseded by a policy of minimum allocation of resources to meet other service providers' needs, and an attitude of doing only what is minimally necessary to avoid regulatory enforcement action, then the growth of competition in all sectors of the Puerto Rico telecommunications market would be damaged. PRTC could use its dominant position to favor its long-distance and wireless affiliates in their competition against Sprint simply by reducing its responsiveness to Sprint's requests to port telephone numbers or to install access lines.

Petitioners argue that the track record of América Móvil and its affiliates in markets outside the United States demonstrates that this anti-competitive approach is the path América Móvil will take.⁹ Sprint believes that this potentiality, and the fragility of competition in the Puerto Rico telecommunications market because of PRTC's dominant position, require the Commission to take steps to ensure that conditions for fair competition remain intact if this transfer of control is completed. Sprint offers its views on appropriate conditions in the next section of these comments.

II. ANY APPROVAL OF THE APPLICATIONS FOR TRANSFER OF CONTROL SHOULD BE CONDITIONED UPON SUSTAINED, MEASURED, AND MONITORED PERFORMANCE BY THE TRANSFEREE IN MEETING ITS OBLIGATIONS TO COMPETITORS.

Sprint agrees with all petitioners that, if the transfer of control of TELPRI from Verizon to América Móvil is to be approved, then the Commission must impose specific, substantive conditions to safeguard competition in the Puerto Rico telecommunications market.¹⁰ Sprint is most concerned with conditions that would require satisfactory performance by PRTC and its

⁹ TLD Petition at 35-49; WorldNet Petition at 28-31.

¹⁰ See TLD Petition at 52-58, WorldNet Petition at 31-38; Centennial Petition at 2-3, 8-16; TRB Petition at 12-13.

affiliates in providing services to other carriers in Puerto Rico, and would bar discrimination by PRTC and its affiliates in favor of themselves and to the detriment of their competitors. These conditions should apply to such matters as porting of numbers; ordering and provisioning; rates, terms, and conditions for interconnection and special access; and billing.

TRB has proposed detailed regulations for “Quality of Service” metrics that include standards for wholesale services.¹¹ Sprint has not had the opportunity to review in detail these proposed regulations, but a preliminary examination indicates that they follow the desired approach for monitoring PRTC performance, *i.e.*, they set specific performance standards in terms of response times and success ratios. WorldNet offers a similar proposal for performance metrics and includes proposed rules for “self-enforcing” liquidated damages penalties and reporting requirements.¹² Centennial suggests that an outside monitor be designated by the Commission, and funded by PRTC, to monitor PRTC’s compliance with its obligations to interconnected carriers under the Telecommunications Act of 1996,¹³ an action not unprecedented when a transfer of control offers substantial potential for anticompetitive effects.¹⁴

The Commission should consider these proposed regulations, and formulate specific, straightforward performance standards and reporting requirements that would readily enable outside monitoring. These standards should include a similar standard for number portability that would apply both to PRTC and its wireless affiliate. Sprint offers the following standards for actions to be taken in response to carriers’ requests, based on PRTC’s current performance:

¹¹ TRB Petition at Attachment B.

¹² WorldNet Petition at Attachment 1.

¹³ Centennial Petition at 8-11.

¹⁴ *See id.* at 11 n.26 (citing FTC action taken in the AOL-Time Warner merger).

Local number portability (LNP) activations – 6 hours;

Access line provisioning – 16 working days;

Primary interexchange carrier (PIC) changes – 24 hours.

These specific standards should be supplemented by a general nondiscrimination requirement as outlined above.

III. CONCLUSION

There is no reason why the Puerto Rico telecommunications market cannot have the same standards for fair competition as the rest of the United States. The proposed transfer of control of PRTC and its affiliates provides the Commission with the opportunity to ensure that such standards are set and met. For the reasons given above, if the Commission approves the proposed transfer of control of TELPRI from Verizon to América Móvil, it should impose conditions that will ensure fair and nondiscriminatory treatment by PRTC and its affiliates of other carriers operating in the Puerto Rico market.

Respectfully submitted,

SPRINT NEXTEL CORPORATION



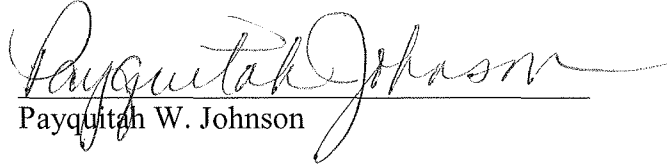
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July 24, 2006

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Comments of Sprint Nextel Corporation** was delivered by electronic mail, or First Class, postage prepaid, U.S. Mail on this 24th day of July 2006 to the below-listed parties.


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